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## Getting away with murder: Political violence on trial in interwar France<sup>1</sup>

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In February 1939, *L'Humanité*, the mouthpiece of the French communist party, published a list of comrades who had died 'in order that liberty lives'. This 'martyrology' contained the names of 41 men killed in violence with political enemies and the police since the crisis of February 1934 when nationalist groups had come within a hair's breadth of toppling the democratic regime. The photographs of eleven of the victims that framed the list included that of the youngest victim, René Scorticatti, killed on 9 May 1934 in the Parisian suburb of Livry-Gargan.<sup>2</sup> On the night of his death, Scorticatti had joined an antifascist counter-demonstration to a meeting of the extreme right-wing league, the Croix de Feu. Police had managed to prevent the demonstrators from entering the meeting venue. The antifascists, frustrated with their failure, erected barricades in front of the railway station. Skirmishes ensued and superintendent Pochon was seriously injured by a blow to the head. As the demonstrators began to dissipate, several shots were fired and Scorticatti was struck. A ballistic analysis showed that the bullet had not been fired from a police firearm. Ultimately, the case was dismissed; police surmised that a stray bullet fired by Scorticatti's comrades had hit the young man.<sup>3</sup> For the antifascist press, the death was highly symbolic: the nascent union between onetime rivals the communist and socialist parties had been 'sealed in blood'. Socialist journalist Jean-Maurice Hermann concluded: 'Is fascism beginning to understand the strength that resides in the united working class?... This young communist... [who passed

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<sup>1</sup> Acknowledgements

<sup>2</sup> Anon. Ceux qui sont morts pour que vive la liberté. *L'Humanité*, 12 February 1939, p. 8.

<sup>3</sup> AN BB<sup>18</sup> 2919. Le Procureur de la République à Pontoise à Monsieur le Procureur Général près la Cour d'Appel de Paris. 11 May 1934; Le Procureur de la République à Pontoise à Monsieur le Procureur Général près la Cour d'Appel de Paris. 14 June 1934.

away] in the arms of two socialists will not soon be forgotten by workers in the region. In the face of bullets and truncheons, the deep feeling of class unity was solidified before the common enemy'.<sup>4</sup> The killer remained at large.

In several ways, Scorticatti's death was emblematic of the violent street politics of interwar France: confrontations between political rivals were small in scale; groups fought cat-and-mouse skirmishes with the police as often as they fought with their rivals; few people were punished for the killing of a political activist. This final point provides the focus for this article. The trial and punishment of men and women involved in violence in a political context presented many practical problems for police investigators and jurists. For political groups the prosecution and punishment of these crimes – or the lack thereof - was highly significant. Criminal cases saw the conflict of the street extended into the court house, giving all parties a chance to put their enemies on trial. They represented, too, an opportunity to test the alleged impartiality of the Republic. An unsatisfactory outcome to a case or the failure to bring a perpetrator to answer for a crime drew condemnation not simply of the judge or jury but also of the entire political system. In the partisan conflict of the era, the court room was an important arena.

The challenge to Third Republican law and order between the wars was determined. This challenge was not unprecedented in its ferocity – the Republic had dealt with violence before, from the anti-Semitic disturbances during the Dreyfus Affair to the protests of striking workers during 1906-7 – but political antagonisms between 1918 and 1940, and the resultant violence, were unparalleled in their persistence. The 1920s saw the founding of several extreme right-wing 'leagues'. The Faisceau, led by Georges Valois, lionised Mussolini and pursued its own fascist political programme. Its uniformed hard-men fought both with their

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<sup>4</sup> Hermann JM. L'inqualifiable agression de la police parisienne contre les manifestants ouvriers de Livry-Gargan. *Le Populaire*, 11 May 1934, pp. 1-2.

left-wing enemies and the street brawlers of the monarchist Action Française, a bitter right-wing rival. Meanwhile, champagne magnate and nationalist deputy Pierre Taittinger founded the Jeunesses Patriotes, an offshoot of the older Ligue des Patriotes. Its bereted and trench coat-wearing brigades provided security at right-wing meetings. The communist left responded to the leagues' paramilitarism with their own squads of street fighters, the Groupes de Défense Antifascistes. Members of the groups were drawn from the communist veterans' association and the Jeunesses Communistes, providing what the party perceived to be the necessary tactical nous and muscle to defeat fascism in the street.<sup>5</sup> Nationalist and antifascist activists, from newspaper sellers to speechmakers, scuffled regularly in the streets and meeting halls of France as they contested the ownership of public space; a handful of men died.

The highpoint of French political violence came during the 1930s when at least 70 people were killed. Spasms of bloody violence punctuated the decade. On 6 February 1934 more than a dozen people died at the hands of the police during a night of nationalist rioting in Paris. Three years later, in March 1937, six people were killed outside a right-wing meeting in Clichy during a clash between antifascists and the forces of order.<sup>6</sup> Beyond these periodic outbreaks of disorder, the emergence of new political formations and strategies saw

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<sup>5</sup> Soucy R. *French fascism: The first wave*. New Haven; London: Yale University Press, 1986; Millington C. Communist veterans and paramilitarism in 1920s France: The Association républicaine des anciens combattants. *Journal of War and Culture Studies* 2015; 8, 300-314.

<sup>6</sup> Jenkins B and Millington C. *France and fascism: February 1934 and the dynamics of political crisis*. London: Routledge, 2016; Kitson S. The police and the Clichy massacre, March 1937. In: Bessel R and Emsley C (eds) *Patterns of provocation: Police and public disorder* New York and Oxford: Berghahn Books, 2000, pp. 29-40.

a mushrooming of daily political violence. New leagues emerged. Marcel Bucard's fascist Francistes glorified violence in its press; the league would survive into the dark years of the Occupation though it counted barely a few thousand members. The blue-shirted leaguers of the Solidarité Française executed punitive expeditions against their political and racial enemies, notably the population of Paris's Jewish quarter. The largest league of the period was the Croix de Feu. Under the leadership of Colonel François de La Rocque, the Croix de Feu used mass motorised rallies and demonstrations to impress sympathisers and intimidate enemies. By 1936, it had approximately 500,000 members. While the extreme right pursued paramilitarism, the antifascist left shunned the tactic in favour of the organisation of large counter-demonstrations to league meetings and gatherings. So-called 'mass self-defence' represented the response to fascism of the now-allied socialist and communist parties. This 'Popular Front' alliance triumphed in the elections of May-June 1936 and promptly outlawed the leagues. The smaller right-wing formations fell into obscurity. La Rocque's league remodelled itself as the Parti Social Français and, while its members continued to engage in episodic violence, the party moved away from paramilitarism. A new formation, Jacques Doriot's Parti Populaire Français, was founded in summer 1936. Doriot encouraged the party's members to take the fight to the communist enemy in the street and the party would become one of the principal collaborationist organisations of the war years.<sup>7</sup>

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<sup>7</sup> Kalman S. *The extreme right in interwar France: The Faisceau and the Croix de Feu*.

Aldershot: Ashgate, 2009; Kennedy S. *Reconciling France against democracy: The Croix de Feu and the Parti Social Français, 1927-1945*. (Montreal; Ithaca: McGill-Queen's University Press, 2007); Millington C. Street-fighting men: Political violence in interwar France. *English Historical Review* 2014; 129: 606-638; Soucy R. *French fascism: The second wave*. New Haven; London: Yale University Press, 1995.

Historians had until recently tended to dismiss the political confrontations of the interwar period as benign, confined either to words alone or to relatively non-violent clashes that did not bear comparison, for example, with the bloody violence of the late Weimar Republic. Typical of this historiographical approach was Serge Bernstein's assertion that the 'latent' civil war in France was 'simulated'. Behind this assertion lay the contention that the lack of violence in politics pointed to a deep commitment to a Republican political culture that prioritised democratic competition over street fighting, a fact that rendered the French 'allergic' to political extremism.<sup>8</sup> Bernstein's conclusions, though drawn in 1985 when there was little empirical research into the phenomenon, have dominated the historiography.<sup>9</sup> Nevertheless, during the 1990s, historians began to challenge this orthodoxy. Allen Douglas and Kevin Passmore's studies of the Faisceau and the Croix de Feu respectively exposed the centrality of paramilitary violence to the political strategy of these groups and hinted at a broader toleration of violence in French politics, too.<sup>10</sup> Ultimately, there was no simple

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<sup>8</sup> Bernstein S. La France des années trente allergique au fascisme. *Vingtième Siècle. Revue d'histoire* 1984; 2 : 83-94 ; Bernstein S. L'affrontement simulé des années 1930. *Vingtième Siècle. Revue d'histoire* 1985; 5 : 39-54.

<sup>9</sup> See for example Burrin P. Poings levés et bras tendus. La contagion des symboles au temps du Front populaire. *Vingtième Siècle. Revue d'histoire* 1986; 11: 5-20; Vidal G. Violence et politique dans la France des années 1930: Le cas de l'autodéfense communiste. *Revue historique* 2006 ; xxxviii : 901-922.

<sup>10</sup> Douglas A. Violence and fascism: The case of the Faisceau. *Journal of Contemporary History* 1984; 19: 689–712; Passmore K. Boy scouting for grown-ups? Paramilitarism in the Croix de Feu and the Parti Social Français. *French Historical Studies* 1995; 19: 527–557. In addition to the work of Douglas and Passmore, see Kennedy S. Pitfalls of paramilitarism: The

relationship between rhetorical violence and its physical expression. Violent speech did not necessarily bring catharsis to bitter political enemies. The violence that frequently erupted exposed the limits to which a democratic political culture pervaded society. The analysis of the narratives constructed around violent incidents, and the attitudes to violence contained within, reveal that the authorities tolerated small-scale physical aggression while political groups considered violence an acceptable means of political engagement when framed as defensive or committed in revenge.<sup>11</sup>

This article seeks to historicise further attitudes to political violence through a novel means of investigation: the judicial means by which the State attempted to control and punish violence. An examination of the State's repression of violence at the lower levels of the judicial system in the magistrates court (the *tribune* or *cour correctionnel*, in which three judges tried the case and imposed the sentence) reveals a toleration of police violence and, in turn, the severe repression of physical aggression against officers. The article investigates, too, the allegations of bias made against the judicial system by activists of various political groups. Such partiality was at times cited as a justification for taking the law into one's own hands, to punish an enemy who would escape punishment in the courts. Political prejudice in the courts was plain in other countries. In Weimar Germany, for example, the right-wing, anti-Republican bias of the judiciary saw left-wingers treated more severely than

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Croix de Feu, the Parti Social Français and the French State, 1934-1939. *Journal of Conflict Studies* 2007; 27: 64–79.

<sup>11</sup> Millington C. Street-fighting men: Political violence in interwar France. *English Historical Review* 2014; 129: 606-638; Millington C. Duelling with words and fists: Meeting hall violence in interwar France. In: Millington C and Passmore K (eds) *Political violence and democracy in western Europe, 1918-1940*. Basingstoke: Palgrave, 2015, pp. 112-126.

nationalists.<sup>12</sup> In Italy, police and judicial officials sympathetic to fascism ensured that right-wingers often escaped charges.<sup>13</sup> There was no such right-wing bias in the French judiciary. In fact, a system of political patronage, favouritism and nepotism often saw men promoted based on their political sureness as Republicans.<sup>14</sup> If any partiality can be perceived in the French judicial system, it was in the courts' protection of police officers from prosecution rather than in an attitude favourable to either left or right.

The investigation of the trials of a handful of activists at the superior assizes court (*cour d'assises*) has the potential to reveal partisan attitudes to Republican justice as well as broader understandings of political violence and its perceived legitimacy. The theatrical nature of proceedings at the assizes court saw these trials serve as political staging grounds in which lawyers put the doctrine of the enemy on trial. Grandstanding and histrionics from the witnesses were further intended to arouse the emotions of the jury, a panel of twelve men who decided the verdict by majority vote. Jury trials were notorious for the erratic nature of their outcomes. Jurors often opted for leniency, especially in cases of violent crime.<sup>15</sup> In

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<sup>12</sup> Evans RJ. *The coming of the Third Reich*. London: Penguin, 2004, pp. 134-138.

<sup>13</sup> Petersen J. Violence in Italian Fascism. In: Mommsen WJ and Hirschfeld G (eds) *Social protest, violence and terror in nineteenth and twentieth-century Europe*. London: Macmillan, 1982, pp. 275-300; Berry F. *Le Fascisme en France*. Paris: Librarire de l'Humanité, 1926, p. 9.

<sup>14</sup> Bancaud A. *Une exception ordinaire. La magistrature en France, 1930-1950*. Paris: Gallimard, 2002, pp. 148-152; Chauvaud F and Yvrol J-J. *Le juge, le tribun et le comptable. Histoire de l'organisation judiciaire entre les puvoirs, les savoirs et les discours (1789-1930)*. Paris: Anthropos, 1995, pp. 282-287.

<sup>15</sup> Donovan JM. Justice unblind: The juries and the criminal cases in France, 1825-1914. *Journal of Social History* 1981; 15: 89-107.



1894, Emile Yvernes, honorary division head at the Ministry of Justice, noted the ‘indulgence’ of the jury for so-called ‘crimes of passion’ and speculated that the same were true of murder (*assassinat*) and homicide without premeditation (*meutre*). Indeed, with the instances of such crimes before the assizes court increasing by 44 percent and 62 percent respectively between 1869 and 1890, Yvernes was perplexed that acquittals in cases of violence against the person had almost doubled in the same period.<sup>16</sup> Furthermore, in 81 percent of convictions in 1890 jurors saw fit to grant ‘mitigating circumstances’ (*circonstance atténuantes*), a provision that required the judge to reduce the severity of the sentence by one degree, but permitted him to do so by two.<sup>17</sup>

Evidence from the nineteenth and early twentieth centuries suggests that in arriving at their decision, in addition to the failure of the police and the investigating magistrate to establish a sufficient case, jurors relied on their own presumptions and prejudices about the perceived legitimacy of the criminal act when measured against popular attitudes rather than against the letter of the law.<sup>18</sup> Trials of political activists at the assizes court were too few to

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<sup>16</sup> The proportion of acquittals during this period rose from 16 percent in 1869 to 29 percent in 1890. Yvernes E. *Le crime et le criminel devant le jury. Exposé fait à l'association française pour l'avancement des sciences. Congrès de Caen*. Paris, 1894, pp. 4-14.

<sup>17</sup> Yvernes, *Le crime*, p. 14. On the provision of mitigating circumstances see Chauvaud F. *La chair des prétoires. Histoire sensible de la cour d'assises*. Rennes: Presses Universitaires de Rennes, 2010, p. 125; Maxwell J. *Manuel du juré. Eléments de science criminelle et pénale à l'usage de la Cour d'assises*. Paris: Flammarion éditeur, 1913, pp. 21-23.

<sup>18</sup> Chauvaud, *La chair des prétoires*, p. 127 Donovan, Justice unblind, 89-91; Farcy. J-C. *L'histoire de la justice française de la Révolution à nos jours. Trois décennies de recherches*. Paris: Presses Universitaires de la France, 2001, pp. 256-258; Ferguson EE.

arrive at a more general conclusion about public attitudes to violence. However, their outcomes demonstrate that such violence was not treated differently to other violent crimes, neither by the jury nor the judges in charge of sentencing. Partial indication as to a jury's attitude toward a crime may be gleaned from the sentencing of convicts after 1932 when jurors were invited to deliberate with the judge on sentencing. For activists, the often-disappointing verdicts of the assizes court, which were delivered following much press attention and speculation, were testament to the prejudice of the State.

The cases selected for study here were not prosecuted for 'politically-motivated violence' or the like; no such crime was on the French statute book. 'Political' crimes did exist; they were defined as those offences committed under the sole impetus of a person's political passion. This designation was made at the discretion of the government and it was usually reserved for plotting against the State rather than brawling in the street. Political activists were instead charged with violations of criminal law (*droit commun*). These included: incitement to riot (*provocation à l'attroupement*); possession of an illegal weapon on one's person (*port d'arme prohibée*); assault and battery (*coups et blessures*); insulting behaviour to an officer of the law (*outrage à agent*); and murder, both premeditated (*assassinat*) and without premeditation (*meutre*). Circumstances could aggravate the charge: for example, if weapons were found in the trunk of an activist's car, rather than on his person, he could be charged with the constitution of an arms dump.<sup>19</sup> While it is impossible to know whether every offence was committed in the pursuit of ideological goals, in interwar France

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Judicial authority and popular justice: Crimes of passion in fin-de-siècle Paris. *Journal of Social History* 2006; 40: 293-315.

<sup>19</sup> Archives de la Préfecture de Police, Paris (hereafter referred to as APP), BA1907. A Valenciennes des francistes bénéficie de la scandaleuse indulgence du tribunal. *Le Populaire*, 30 March 1935.

incidents of violence between activists were always highly politicised in retrospect by the partisan press. The crimes included here were of this nature.

### **Prosecuting political violence**

There were two means by which the state authorities could attempt to limit ‘political’ violence. The first method was preventative and lay in the regulation of the behaviour of activists in public space. To this end there was a raft of law and order legislation at the disposal of the State. Some laws were long-established: for example, the law of 30 June 1881 introduced rules for the staging of a public meeting in order to defuse passions in the meeting hall. The same law prohibited such meetings on the public highway lest a mob should form.<sup>20</sup> Other laws responded to more immediate changes in the style of French street politics: the decrees of October 1935 introduced new legal requirements for the prior authorisation of street demonstrations at a time when the practice was beginning to involve ever-greater numbers of people.<sup>21</sup>

The second method was repressive: the trial and punishment of activists involved in violent incidents. There were three levels to the seriousness of an offence: the *contravention* (minor misdemeanour or infraction), the *délit* (serious offense or misdemeanour) and the *crime* (felony). Offences committed by political activists were generally tried as a *délit* or a *crime*. Individuals charged with committing a *délit* – such as being found in the possession in

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<sup>20</sup> Cossart, P. *Le meeting politique: De la délibération à la manifestation*. Rennes: Presses universitaires de Rennes, 2010, pp. 10-15; 69.

<sup>21</sup> Archives Nationales, Paris (hereafter AN) BB 18 3161. Le Procureur Général près la Cour d’Appel d’Aix à Monsieur le Garde des Sceaux, Ministre de la Justice’. 5 December 1938.

public of an illegal weapon – were required to appear at the lower magistracy court.<sup>22</sup> The three judges of the court had the power to sentence a guilty party or acquit them of all charges. A public prosecutor presented the State's case while a representative of a civil party might also be present. A lawyer for the defence spoke for the accused. Lawyers could cross examine the defendant and both sides could call witnesses. The justices could not impose the most serious of punishments (that power was reserved for the assizes court), but they could impose hefty fines and imprisonment of up to five years.<sup>23</sup> In the cases of individuals tried for offences relating to political violence it was highly unusual for a person not to benefit from a suspended sentence (termed a penalty *avec sursis*), whether this related to a prison term or a fine. A suspended sentence could be granted only to a first-time offender. If political groups interpreted such a qualification to be evidence of judicial indulgence toward their enemy, it is possible that the courts looked favourably on the absence of a prior criminal record, too.<sup>24</sup>

When the subject of a police investigation was designated a *crime*, the accused was required to appear before the assizes court.<sup>25</sup> Cases came before this superior court only after a long and detailed examination of the facts by an investigating magistrate (*juge d'instruction*). This magistrate had broad powers: he reviewed the evidence and police reports, questioned the accused, and spoke with witnesses.<sup>26</sup> The investigation could last up

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<sup>22</sup> Martin BF. *Crime and criminal justice under the Third Republic: The shame of Marianne*. Baton Rouge: Louisiana State University Press, 1990, p. 140; Dononvan JM. Magistrates and juries in France, 1792-1952. *French Historical Studies* 1999; 22: 382.

<sup>23</sup> Martin, *Crime and Criminal Justice*, pp. 174-6.

<sup>24</sup> On the law of *sursis* see Maxwell, *Manuel du juré*, pp. 72-74.

<sup>25</sup> For an excellent explanation of the judicial procedure from arrest to trial see Garner JW. Criminal procedure in France. *The Yale Law Journal* 1916; 25: 255-284.

<sup>26</sup> Dononvan, Magistrates and juries, p. 382.

to six months. Having compiled a dossier on the crime, he consulted with the public prosecutor (*procureur*) before deciding upon whether to issue an indictment or to dismiss all charges (termed a *non-lieu*). In the event of a recommendation for an indictment, the final decision rested with the *chambre des mises en accusation* (the indictment court), whose five judges reviewed written representation from all parties. When the decision to indict was upheld, the case was transferred to the assizes court. Lawyers in this court represented the defence, the state prosecution, and a civil party where applicable.<sup>27</sup>

To some extent the defendant at the assizes court faced an uphill battle from the moment of indictment: with the magistrate's pre-trial investigation intended to establish the likelihood of a successful prosecution, to come to trial implied that the accused was guilty, at least in the eyes of the investigator and a handful of judges.<sup>28</sup> The opening of the trial could potentially disadvantage further the accused. The clerk of the court opened the trial with the reading of the accusatory indictment statement (*acte d'accusation*). The presiding judge then delivered an often-lengthy speech that explained the crimes of which the defendant was accused and his or her prior criminal record. While juries were advised not to convict a man for his past misdeeds, such information was intended to expose the potentially habitual nature of the defendant's criminality.<sup>29</sup> The judge also allowed the defence to outline its argument in the interests of impartiality yet the opening of a trial tended to take the form of a hostile cross-examination of the man or woman in the dock.<sup>30</sup> '[I]t is a marvel that defending counsel

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<sup>27</sup> Martin, *Crime and Criminal Justice*, pp. 150-156.

<sup>28</sup> Ibid., p. 142; p. 145; p. 169; p. 178.

<sup>29</sup> Maxwell, *Manuel du juré*, p. 106; Chauvaud, *La chaire des prétoires*, p. 104.

<sup>30</sup> Chauvaud, *La chaire des prétoires*, p. 104; Donovan, *Magistrates and juries*, 386; Garner, *Criminal procedure in France*, 267; Maxwell, *Manuel du juré*, p. 106.

is able to do anything for the accused at all', remarked H. Cleveland Coxe in the 1904 *Yale Law Journal*.<sup>31</sup>

Nevertheless, a conviction at the assizes court was far from assured. The decision to convict lay with a jury of twelve men, selected from a predetermined list of men of good moral standing.<sup>32</sup> A simple majority of seven was required for a conviction. For Republicans, the 1791 introduction of the right to a trial by a jury of 'citizen-judges' represented a revolutionary victory over the arbitrary justice of the monarch.<sup>33</sup> However, it was not long before the rather lenient decisions of the jurors began to arouse criticism. To remedy the situation, the French authorities resorted to two measures. Firstly, in 1832 legal reform introduced the provision of 'mitigating circumstances'. Jurists believed that in cases where the penalty seemed too severe for the relative seriousness of the crime, jurors preferred to acquit. It was hoped, therefore, that a jury would be more likely to convict if the sentence could be reduced for acts committed in mitigating circumstances, the details of which remained undefined in French law. At the same time the crime of assault without the intention to cause death was introduced to further ensure that the guilty were not allowed to walk free.<sup>34</sup>

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<sup>31</sup> Coxe HC. Personal liberty in France. *The Yale Law Journal* 1904; 13: 221.

<sup>32</sup> Jury selection was democratised when the workers were no longer excused from jury service. See Maxwell, *Manuel du juré*, pp. 9-16 for a full list of the requirements of jurors and the reasons for exclusion from service.

<sup>33</sup> Donovan, Magistrates and juries, 379. For a brief overview of the history of the jury in the French legal system see Pradel J. Le jury en France: Une histoire jamais terminée. *Revue internationale de droit pénale* 2001; 72: 175-179.

<sup>34</sup> Tanguy J-F. Tuer sans intention de tuer: quand l'intention, et non l'effet, construit le crime. In: Follain A, Lemesle B, Nassiet M, Pierre E and Quincy-Lefebvre P (eds) *La violence et le*

Secondly, the policy of ‘correctionalisation’ aimed to ensure a higher rate of conviction. Correctionalisation entailed the trying of cases usually reserved for the assizes court in the lower magistrates court. The practice originated in a circular sent to officials of the judiciary by the Minister of the Interior in 1842. The Minister believed that the judges of these courts would be less likely to acquit a defendant than a jury at the assizes court. While this illegal directive was later revoked, it remained common practice and thus created a discrepancy in the judicial system that could see two men tried in different courts for the same crime. Correctionalisation persisted beyond 1918 and the number of cases heard at the assizes court steadily decreased.<sup>35</sup>

Despite the reform of 1832 and the implementation of correctionalisation, by the end of the nineteenth century there was still much dissatisfaction with the outcome of trials by jury, especially in cases of violent crime.<sup>36</sup> Yvernes observed that the more serious the crime (and the more severe the potential punishment), the more lenient a jury still tended to be. He noted further that when jurors granted mitigating circumstances to a convicted person, the presiding judges often compounded the leniency of the jury in reducing the penalty by two degrees when the law required solely a reduction of one.<sup>37</sup> Joseph Maxwell’s 1913 handbook for jurors – endorsed by contemporary magistrates of renown - sought to shore up the ‘firmness’ of the jury through a thorough explanation of the panel’s duties as well as the

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*judiciaire. Discours, perceptions, pratiques.* Rennes: Presses Universitaires de Rennes, 2008, pp. 251-264.

<sup>35</sup> Donovan, *Magistrates and juries*, 410; Yvernes, *Le crime*, p. 8.

<sup>36</sup> Chauvaud, *La chaire des prétoires*, p. 126; Ferguson, *Judicial authority and popular justice*, 293; Garner, *Criminal procedure in France*, 278, Yvernes, *Le crime*, p. 14.

<sup>37</sup> Yvernes, *Le crime*, pp. 15-16.

procedure of trials and matters of sentencing.<sup>38</sup> For Maxwell, the leniency of jurors was a serious matter for it potentially explained the doubling of the murder rate between 1896 and 1909. A similar argument in relation to the broader crime rate had been made during the nineteenth century.<sup>39</sup> Thus while the assizes court could deliver severe sentences to the guilty from five years' imprisonment to forced labour and death, the jury usually ensured that punishment was not so severe.

From where did the apparent leniency of the jury emanate? Juries delivered verdicts based on their moral understandings of a crime and its motives rather than the strictures of the law. Each took an oath to listen to their conscience and 'inner conviction' to come to a verdict that would be in the interests of not only the accused but also of society.<sup>40</sup> According to Eliza Earle Ferguson, the facts of the crime mattered less than the perceived legitimacy or illegitimacy of the act.<sup>41</sup> Violence that was deemed socially or culturally acceptable could potentially be punished with mitigating circumstances - or not punished at all.<sup>42</sup>

Furthermore, the procedure, rituals, and rules of the assizes courtroom could also sway a jury. The commencement of proceedings could arouse sympathy for the accused, particularly if he or she appeared browbeaten under the presiding judge's opening

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<sup>38</sup> Maxwell, *Manuel du juré*; Chauvaud, *La chaire des prétoires*, p. 117.

<sup>39</sup> *Manuel du juré*, pp. 142-144; Wright G. *Between the guillotine and liberty: Two centuries of the crime problem in France*. Oxford: Oxford University Press, 1983, p. 63.

<sup>40</sup> Ferguson, *Judicial authority and popular justice*, 304; Maxwell, *Manuel du juré*, p. 97.

<sup>41</sup> Ferguson, *Judicial authority and popular justice*, 294.

<sup>42</sup> Frevert U. Honour and / or / as Passion: Historical trajectories of legal defences. *Zeitschrift des Max-Planck-Instituts für europäische Rechtsgeschichte / Journal of the Max Planck Institute for European Legal History* 1014; 22: 251; Martin, *Crime and criminal justice*, p. 184.



intervention. Furthermore, there were few rules to govern the submission of evidence or the admission of witness testimony. In fact, with the criminality of the act believed to be discoverable solely through a full appreciation of the character of the accused and the victim, as well as in the circumstances of the offense, witnesses could speak at length of matters with little regard for the direct relevance of their testimony to the crime. At the trial of political activists it was not unusual for over one hundred witnesses to be called. Many of these witnesses had not been present at the time or place of the alleged offence. Instead they spoke fervently for the guilt or innocence of the defendant based on his or her political loyalties.<sup>43</sup> Lawyers could act likewise.

The performance of witnesses and lawyers was therefore paramount. It was believed that a barnstorming speech from a lawyer or a witness could intoxicate not only the jury but also the audience to such an extent as to influence the outcome of the trial.<sup>44</sup> According to Frédéric Chauvaud, contemporaries recognised the theatricality of proceedings at the assizes court: reports of criminal trials were replete with theatrical vocabulary in which the ‘actors’ played in the ‘judiciary drama’ (*drame judiciaire*).<sup>45</sup> In such a respect, trials were not unlike the political meetings of the period in which the performance of an orator was thought to

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<sup>43</sup> All manner of witnesses could be heard, not just those who had been at the scene of the crime (*témoins de fait*), but also character witnesses (*témoins de moralité*): Maxwell, *Manuel du juré*, pp. 104-106. Once non-expert witnesses had been heard, expert witnesses were called; on this subject see Chauvaud F with Dumoulin L. *Experts et expertise judiciaire. France, XIXe et XXe siècles*. Rennes: Presses Universitaires de Rennes, 2003.

<sup>44</sup> Chauvaud F. *Justice et déviance à l’époque contemporaine. L’imaginaire, l’enquête et le scandale*. Rennes: Presses Universitaires de Rennes, 2007, pp. 128-131.

<sup>45</sup> Chauvaud, *La chaire des prétoires*, p. 59.

have an impact upon the behaviour of an audience.<sup>46</sup> The forces of order evidently feared that the scenes of violence witnessed at political meetings would be repeated at trials, too. To avoid confrontation outside the courthouse it was not unusual for the surrounding streets to be cordoned off and occupied by contingents of soldiers, Mobile Guard riot officers, and police constables.<sup>47</sup>

When the decision of a judge or jury went against a defendant, political groups cried foul, citing the partisan bias inherent to the legal system. The extent to which groups had genuine grounds for this suspicion is unclear. Often it appeared that left-wing activists were arrested and punished more frequently than their right-wing opponents. While an anti-communist bias might be perceived in the behaviour of the police, especially during the tenure of Paris Prefect of Police Jean Chiappe, the left's penchant for organising massive and sometimes illegal street demonstrations (compared to the right's preference for private political meetings) meant that socialist and communists activists were simply more likely to find themselves in confrontational situations with police officers.<sup>48</sup>

In the perceived absence of justice, political factions threatened to exact their own retribution upon opponents. In the aftermath of an attack on a communist party meeting in

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<sup>46</sup> Millington, *Duelling with words and fists*.

<sup>47</sup> See for example: *Devant les assises de Tarn-et-Garonne ont commencés les débats de l'affaire de Moissac. Le Matin*, 16 March 1937, p. 3

<sup>48</sup> There is some limited research into the potential biases of the Third Republican police: Kennedy S. Pitfalls of paramilitarism: The Croix de Feu, the Parti Social Français and the French State, 1934-1939. *Journal of Conflict Studies* 2007; 27: 67; Kitson S. Police and politics in Marseille, 1936-1938. *European History Quarterly* 2007; 31, 87-108; Soucy R. *French Fascism: The First Wave*. New Haven and London: Yale University Press, 1986, p. 221.

March 1926, the communist daily newspaper *L'Humanité* warned, 'These fascists injured our comrades in an inglorious ambush... *it is not before justice that we shall hold them to account, we look after our own defence*'.<sup>49</sup> The party regularly condemned the 'class justice' of the bourgeois Republic that persecuted the working class.<sup>50</sup> Similarly, in January 1934, leader of the fascist Franciste league Marcel Bucard threatened that if the Republic did not punish the guilty (namely Jews, communists, and Freemasons), the Francistes would, 'put violence at the service of Justice. We will raise the guillotines in the four corners of Paris and we will cut off heads'.<sup>51</sup> While such rhetorical violence may have been cathartic for certain activists, it threw into question the perceived legitimacy of the courts and the rule of law. Street violence against one's enemy was frequently framed as a form of extra-judicial punishment.<sup>52</sup>

The partiality of the courts may be perceived in cases that concerned police officers, rather than activists of left or right. Low level-violence committed by police officers was tolerated. In February 1929, for example, the case of Théodore Sandos and Marie Balme du Garay came before the eleventh correctional court in Paris. Both men were members of the monarchist league, the Action Française. They stood accused of assaulting officers of the law during a demonstration in Paris on 19 January 1929. When a witness to the violence claimed that he had overheard a police officer say to Sandos, 'It's alright, I've got you, you'll pay for [the crimes] of the other one', before proceeding to assault him, lawyer for defence Georges Calzant protested to the judge: it was not fair, he argued, to tolerate such action from the

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<sup>49</sup> AN F<sup>7</sup> 13198. Après le guet-apens des sociétés savants. *L'Humanité*, 16 March 1926, italics in the original.

<sup>50</sup> Camisard. Justice de classe. *L'Humanité*, 11 June 1929, pp. 1-2.

<sup>51</sup> Bucard M. Vive la République! *Le Franciste*, January 1934, p. 1.

<sup>52</sup> Millington, Street-fighting men, 538.

police which made ‘Peter pay for the crimes of Paul’. In response, the prosecutor, asked the witness, ‘Wasn’t the officer’s face covered in blood?’. When the witness replied that it was, the prosecutor simply concluded, ‘Well that explains it.’<sup>53</sup> Sandos and Balme du Garay were subsequently jailed. The exchange here illustrates the broader toleration of the gratuitous ‘minor’ violence regularly doled out by police officers to political activists, with the apparent connivance of their superiors. Police beatings did not discriminate between left- and right-wing activists and, it seems, nor did the decisions of the courts.

On the other hand, violence *against* officers of the law was considered more serious than fighting amongst political activists. Charges were dropped in such cases on a less frequent basis than for other offences.<sup>54</sup> Men and women convicted of this offence could also receive a harsh punishment, a fact that is particularly striking given Jean-Claude Farcy’s observation that the judges of the lower magistrates court tended to act with clemency.<sup>55</sup> In November 1935, for example, Gabriel Cavalade was arrested on his way to an Action Française demonstration. He was found to be carrying, ‘two spiked corks intended, without doubt, to be thrown under the hooves of the gendarmes’ horses’. Charged with the possession of, ‘equipment harmful to public security’, he was sentenced to three months’

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<sup>53</sup> AN F<sup>7</sup> 13206. Untitled report, 12 February 1929.

<sup>54</sup> Aubusson de Cavarlay B. Affaires traitées par la justice pénale: les cases de violence selon les categories de la statistique criminelle (France, 1831-1932). In: Follain A, Lemesle B, Nassiet M, Pierre E and Quincy-Lefebvre P (eds) *La violence et le judiciaire. Discours, perceptions, pratiques*. Rennes: Presses Universitaires de Rennes, 2008, p. 236.

<sup>55</sup> Farcy, *L’histoire de la justice française*, pp. 258-260.

imprisonment and a 300 Francs fine.<sup>56</sup> Usually, activists convicted of possessing illegal weapons in public received a suspended sentence of between sixteen and 50 Francs only. Even verbal insults to the police could carry a hefty fine: in May 1935 communist activist Montjauvis was fined 100 Francs for calling the police a ‘bunch of pigs’ during a political meeting.<sup>57</sup> Consequently, the harsh punishment of relatively minor offences involving officers revealed a desire to protect the police and deter aggression against them.

Left-wing groups often accused the magistrates of acting mercifully toward right-wing activists while passing heavy sentences against antifascists.<sup>58</sup> In December 1935, for example, the *cour correctionnel* in Caen sentenced ten young antifascists to a total of six years and eleven months in prison for violence against members of the extreme right-wing Croix de Feu at Mondeville. Local left-wingers protested the sentences against these ‘honest workers’ with no prior criminal convictions. The local Radical Party Federation pointed to the inequality of sentences handed down to these men compared with those usually passed

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<sup>56</sup> AN BB<sup>18</sup> 2958. Le Procureur de la République à Monsieur le Procureur Général près la Cour d’Appel à Nancy. 13 November 1935; Le Procureur Général près la Cour d’Appel de Nancy à Monsieur le Garde des Sceaux, Ministre de la Justice. 23 December 1935.

<sup>57</sup> AN F<sup>7</sup> 12959. Untitled report, 2 May 1935.

<sup>58</sup> For example see BB<sup>18</sup> 2752. Bénard P. C’est par un “conseil de guerre” royaliste qu’ont été condamnés les républicains du Blanc. *L’Oeuvre*, 2 September 1926; AN BB<sup>18</sup> 2919. Victor Basch à Monsieur le Ministre de la Justice. 18 March 1935; APP BA 1907. Anon. A Valenciennes des francistes bénéficient de la scandaleuse indulgence du tribunal. *Le Populaire*, 30 March 1935; AN BB<sup>18</sup> 2959. Le Comité de Défense des Inculpés de Mondeville (Calvados) à Monsieur le Ministre de la Justice, Caen. 31 March 1936.

against right-wingers.<sup>59</sup> Yet the sentences in part reflected the character of left-wing violence; antifascists were more likely to commit offensive acts than their right-wing enemies. The incident at Mondeville was a case in point. The charge of violence against the activists was aggravated by that of premeditation and ambush, which seemed to explain why the sentences were relatively more severe.<sup>60</sup>

The courts came under pressure from Paris to pass down harsher sentences when immediate political context required a reinforcement of law and order. In March 1934, for example, Minister of Justice Henri Chéron sent two confidential circulars to public prosecutors across France. He stressed in the circulars that the need to maintain public order at a time of growing political tension was paramount; ‘a particularly firm application of the current legal measures’ was essential. Chéron advised prosecutors to seek ‘severe sentences’ against anyone found guilty of an infraction to the law of 24 May 1834 on carrying banned weapons, as well as against activists arrested during illegal demonstrations. He further asked that prosecutors oppose the granting of a suspended sentence in all such cases and mount an

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<sup>59</sup> AN BB<sup>18</sup> 2959. Ordre du jour voté à l’unanimité par la Fédération Radicale et Radicale-Socialiste du Calvados. Undated; Le Comité de Défense des Inculpés de Mondeville (Calvados) à Monsieur le Ministre de la Justice, Caen. 31 March 1936; Le Procureur Général près la Cour d’Appel de Caen à Monsieur le Garde des Sceaux, Chambéry. 12 December 1935.

<sup>60</sup> AN BB<sup>18</sup> 2959. Ordre du jour voté à l’unanimité par la Fédération Radicale et Radicale-Socialiste du Calvados. Undated; Le Comité de Défense des Inculpés de Mondeville (Calvados) à Monsieur le Ministre de la Justice, Caen. 31 March 1936; Le Procureur Général près la Cour d’Appel de Caen à Monsieur le Garde des Sceaux, Chambéry. 12 December 1935.

appeal in the event of an unsatisfactory outcome.<sup>61</sup> The following month, evidence from the Seine suggests that this crackdown was taking effect. The public prosecutor wrote to one of his subordinates about the posting of a small sticker (*papillon*) in public in the department upon which was printed, ‘Watch this Fascist’ (*Fasciste à surveiller*). The prosecutor explained that the display of such a sticker was neither an offence nor an act of violence in itself, but that perhaps one could consider the deed an act of ‘moral violence’ – especially with regard to ‘present circumstances’ – and so subject to the definition of violence in article 311 of the Penal Code. While the prosecutor recognised that such a legal precedent in this respect did not yet exist, he ordered that anyone seen posting such stickers should be arrested and sentenced at the *cour correctionnel*.<sup>62</sup> The political demands of a particular moment could thus come to bear on the relative severity of sentencing.

However, two months after Chéron’s circular, a shooting at Montargis seemed to suggest a toleration of extreme right-wing violence. On 15 May 1934, Jeunesses Patriotes leaguers encountered left-wing counter-demonstrators as they left a meeting. The leaguers fired a volley of revolver shots into the crowd, hitting young communist Jean Lamy in the leg. Lamy later died from his injuries; his killer was never caught. Several leaguers were arrested, including right-wing politician Charles Trochu who was found to be carrying an automatic pistol. Officers discovered a further stockpile of guns, truncheons and knuckledusters in the leaguers’ cars. When the case came before the *cour correctionnel*,

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<sup>61</sup> AN BB<sup>18</sup> 2918. Circulaire confidentielle: Le garde des Sceaux, Ministre de la Justice à Monsieur le Procureur Général près la Cour d’appel d’, Paris. 26 March 1934; Télégramme circulaire aux Procureurs Généraux France et Alger [from the Garde des Sceaux]. Undated.

<sup>62</sup> AN BB<sup>18</sup> 2919. Le Procureur de la République à Monsieur le Procureur Général, Paris. 11 April 1934.

Trochu received a 200 Francs fine, while his comrades were fined between 25 and 50 Francs each for carrying banned weapons.<sup>63</sup>

Victor Basch, president of the Ligue des Droits de l'Homme, was outraged enough at the apparent leniency of the sentences to write personally to the Minister of Justice. He condemned the penalties because, according to his letter, left-wing activists frequently faced prison sentences for carrying banned weapons. The public prosecutor in Orléans agreed. He noted in a communication to the Minister of Justice that the court had, 'taken into account the foreboding (*mauvais pressentiments*) that the accused would have had in going to the meeting on 15 May, and that [they would have known] it would be necessary to defend themselves'. The prosecutor continued: '[t]hat demonstrates absolutely, in my opinion, that the accused and in particular, their leader, Trochu knew that they would provoke a reaction, amongst a population completely hostile to their ideas, and that was not entirely in their favour'. He concluded that the sentences were too lenient but did not press the issue.<sup>64</sup> This was not the only case in which the public prosecutor decided not to press charges in the name of 'appeasing passions', fearing that a criminal trial could revive tensions between enemy factions on the left and right.<sup>65</sup> However, such a consideration was not sufficient in itself to

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<sup>63</sup> AN BB<sup>18</sup> 2919. Le Procureur Général près la Cour d'Appel d'Orléans à Monsieur le Garde des Sceaux, Orléans. 17 May 1934.

<sup>64</sup> AN BB<sup>18</sup> 2919. Victor Basch à Monsieur le Ministre de la Justice. 18 March 1935; Le Procureur Général près la Cour d'Appel d'Orléans à Monsieur le Garde des Sceaux, Orléans. 13 March 1935.

<sup>65</sup> AN BB<sup>18</sup> 2832, 'Le Procureur Général près la Cour d'Appel de Paris à Monsieur le Garde des Sceaux', 24 June 1930. See also AN BB<sup>18</sup> 2960, 'Le Procureur de la République à Versailles à Monsieur le Procureur Général près la Cour d'Appel de Paris', 12 October 1937; AN BB<sup>18</sup> 3019, 'Le Procuruer de la République à Versailles à Monsieur le Procureur



warrant no further action. Other factors usually came to bear on the prosecutor's decision, such as conflicting witness statements, the inability to establish the facts of the case, or the potential for a successful prosecution. Political groups were not a party to these considerations and the judges' decision was often perceived to be politically-motivated.<sup>66</sup>

A series of amnesties further served to excuse crimes committed in a political context. The election of the left-wing Popular Front government in June 1936 was followed swiftly by the promulgation of an amnesty law intended to clear political activists of past convictions. Political considerations motivated the measure: the government sought to pardon antifascists whom it believed had been treated tendentiously under previous administrations. Yet the amnesty applied to all offences committed by left- *and* right-wing activists prior to 26 June 1936 in meetings, during electoral periods, and strikes. Significantly, convictions for the obstruction of, and violence toward, police officers were reviewed on a case-by-case basis.<sup>67</sup>

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Général', 29 January 1937; AN BB<sup>18</sup> 3071, 'Le Procureur de la République près le Tribunal de Première Instance de Tarascon à Monsieur le Procureur Général près la Cour d'Appel d'Aix', 15 December 1937; AN BB<sup>18</sup> 3071, 'Le Procureur Général près la Cour d'Appel d'Aix, à Monsieur le Garde des Sceaux, Ministre de la Justice', 24 May 1938

<sup>66</sup> For example see AN BB<sup>18</sup> 2832. Le Procureur de la République à Monsieur le Procureur Général. 11 March 1931; AN BB<sup>18</sup> 2958. Le Procureur de la République près le Tribunal de 1ère Instance de Bar le Duc à Monsieur le Procureur Général près le Cour d'Appel de Nancy. 21 October 1935; AN BB<sup>18</sup> 2960. Le Procureur de la République à Versailles à Monsieur le Procureur Général près la Cour d'Appel de Paris. 12 October 1937; AN BB<sup>18</sup> 3071. Le Procureur de la République près le tribunal de Première Instance de Tarascon à Monsieur le Procureur Général près la Cour d'Appel d'Aix. 15 December 1937.

<sup>67</sup> Gaçon S. *L'amnistie de la Commune à la guerre d'Algérie*. Paris: Editions du Seuil, 2002, p. 151.

A further amnesty in July 1937 pardoned crimes and infractions committed during street demonstrations.<sup>68</sup> In one case at least, the prosecution of a case was delayed in expectation that the offences involved would soon be amnestied: rather than bring the men to court the public prosecutor in Versailles preferred to await the passing of the law at which time he would promptly dismiss all charges.<sup>69</sup>

Prosecution for offences committed during confrontations was subject to an array of factors that could mitigate or aggravate the seriousness of the charges and the sentences passed down. While the violence of police officers was tolerated, there is little evidence of a systematic bias against groups of one political colour or another. Rather, immediate circumstance weighed on decisions whether the obscure details of an incident, the desire of a public prosecutor not to reopen political wounds, or the determination of a minister to restrain an escalating spiral of confrontation. It was in fact the Popular Front that made the most politically-motivated intervention of the interwar years when it twice amnestied crimes and misdemeanours connected with political violence. Nevertheless, the amnesty laws applied to right-wing activists, too.

### **Violence on trial at the assizes court**

Between January 1925 and January 1938, 79 people died during or following incidents of violence involving political groups. Only two women figured among the dead: Corentine Gourlan and Solange Demangelles, the former killed during the riot of 6 February 1934 and the latter killed in March 1937 at the demonstration in Clichy. Where the political loyalty of

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<sup>68</sup> See for example: AN BB<sup>18</sup> 2020. Le Procureur Général près la Cour d'Appel de Riom à Monsieur le Garde des Sceaux. 1 December 1937.

<sup>69</sup> AN BB<sup>18</sup> 3019. Le Procureur de la République à Versailles à Monsieur le Procureur Général. 29 January 1937.

a victim could be established, most of the dead belonged to right-wing groups (30 dead compared with 22 victims claimed by the left). Five of the dead were members of the forces of order while police were responsible for 36 deaths. Killings during acts of political violence were rarely premeditated. While the preparedness of activists to commit violence meant that fatalities were always a potentiality, many deaths were apparently unintended.

Despite the number of deaths, fewer than ten alleged perpetrators stood trial at the assizes court. Cases did not reach the upper levels of the justice system for several reasons. Firstly, charges were usually dismissed when a killing was thought to be unequivocally an act of self-defence. This was the case in March 1935 following the death of Action Française leaguer Alfred Treille. The public prosecutor concluded that Treille had been killed while leading an Action Française attack on the offices of left-wing newspaper *La Flèche* in Lyon. The raiding party had encountered two guards in the building and Treille was mortally wounded in an exchange of gunfire. His killer was not charged.<sup>70</sup>

Secondly, when an officer of the law committed a killing, charges were likewise dismissed on the grounds of self-defence. Such was the outcome in the killing of communist activist Henri Vuillemin by police officer Paul Maujean on 26 February 1934 during a communist demonstration in the twentieth *arrondissement* of Paris.<sup>71</sup> Investigators established that the bullet that killed Vuillemin had been fired from Maujean's revolver.<sup>72</sup>

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<sup>70</sup> AN F<sup>7</sup> 13028. Le préfet du Rhône à Monsieur le Ministre de l'Intérieur. 2 July 1934; AN BB<sup>18</sup> 2919. Le Procureur Général près la Cour d'Appel de Lyon à Monsieur le Garde des Sceaux. 13 February 1935; Le Procureur Général près la Cour d'Appel de Lyon à Monsieur le Garde des Sceaux. 25 March 1935.

<sup>71</sup> APP BA 1853. Rapport sur les circonstances de la mort de Vuillemin. April 1934.

<sup>72</sup> AN BB<sup>18</sup> 2919. Le Procureur Général près la Cour d'Appel de Paris à Monsieur le Garde des Sceaux, Paris. 19 June 1934.

However, the case did not make it to trial. Maujean claimed that he had fired into the air in self-defence (something which police officers were nevertheless ordered not to do). The judges of the lower magistrates court and Vuillemin's mother was ordered to pay the court expenses.<sup>73</sup>

Finally, a decision for a *non-lieu* could arise from the impossibility of finding the perpetrator. The political violence that resulted in fatalities was often committed in the tumult of a brawl, perhaps at night, and witnessed either by activists liable to give tendentious accounts of the incident or bystanders afraid of reprisals and thus reluctant to admit to having witnessed anything at all.<sup>74</sup> It was often difficult to establish what had led to the violence, let alone who had struck the lethal blow or fired the fatal shot.<sup>75</sup> Such was the case, for example, in the killing of M. Ville outside a nationalist meeting in Marseille in February 1925, and the murder of right-winger Jean Créton at Vrignes-aux-Bois in February 1937.<sup>76</sup> A lack of evidence or confusion over the facts of an incident of murder could constrain the authorities to charging activists with a lesser offence, leaving the police and judiciary open to

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<sup>73</sup> Anon. Un agent poursuivi pour homicide par imprudence. *Le Matin* 21 November 1924, p. 7; Anon. Tribunaux: Le gardien de la paix Maujean a été acquitté. *Le Matin*, 28 November 1935, p. 8; AN BB<sup>18</sup> 2919. Le Procureur Général à Paris à Monsieur le Garde des Sceaux. 10 December 1934.

<sup>74</sup> AN BB<sup>18</sup> 3071. Le Procureur Général près la Cour d'Appel de Lyon à Monsieur le Garde des Sceaux. 30 May 1939.

<sup>75</sup> Aubusson de Cavarlay, *Affaires traitées par la justice pénale*. 228.

<sup>76</sup> AN BB<sup>18</sup> 2919. Bagarres survenues à Marseille, le 9 Février 1925 à l'occasion d'une manifestation organisée par la Fédération Nationale Catholique. 8 April 1927; AN BB<sup>18</sup> 3072. Le Procureur Général près la Cour d'Appel de Nancy à Monsieur le Garde des Sceaux, Ministre de la Justice. 8 April 1940.

accusations of ineffectiveness or indulgence. In April 1937, for example, a fight at a bar in Nice between members of the fascist Parti Populaire Français and left-wingers saw antifascist Espaltero Rossi fatally shot. A certain right-winger named Boyer was arrested and investigated for Rossi's murder. However, investigators found that the bullet that killed the antifascist was fired neither from Boyer's revolver nor from any of the guns found in the bar. The magistrate was therefore forced to drop the charge of murder. Boyer subsequently received a fine of 50 Francs for possession of an illegal weapon.<sup>77</sup> The practicalities of interwar police work could thus preclude a successful prosecution.

Cases that advanced to trial at the assizes court received extensive press coverage. Political groups followed closely the process and verdict of the trials by jury, believing them to be revelatory of the State's attitude to the political doctrine accused of inspiring such violence, whether communism or fascism. When the authorities managed to bring a man to trial by jury, evidence suggests that members of left-wing parties did not receive harsher sentences than members of right-wing parties or leagues. Two trials of men from opposite ends of the political spectrum illustrate this fact. The circumstances of their crime and the defence that they offered were very similar. Both men – communist Joseph Roelants and right-wing activist Alexis Valès (a member of the Parti Social Français) - admitted to fighting with their victim but without the intention to commit murder. Roelants was tried in June 1935 at the assizes court of Versailles for the murder of Action Française leaguer Marcel Langlois the previous February. Langlois had died following a blow to the head during a street brawl between communists and Action Française street-fighters in Le Vésinet.

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<sup>77</sup> AN BB<sup>18</sup> 3071. Extrait des minutes du greffe de la Cour d'Appel d'Aix en provence (Bouches du Rhône). Undated; Le Procueruer Général près la Cour d'Appel d'Aix, à Monsieur le Garde des Sceaux, Ministre de la Justice. 24 May 1938.

Roelants admitted to having struck Langlois without intending to kill him.<sup>78</sup> The trial heard statements from fifty-nine witnesses including Langlois's fellow leaguers, communist leader Marcel Cachin, and Victor Basch. In his closing recommendations to the jury, public prosecutor Balmory asked for a 'severe conviction' but stated that he would not oppose the granting of mitigating circumstances. The jury subsequently convicted Roelants of assault without the intention to kill and allowed for the fact that he had acted under provocation. He received 6 months' imprisonment for the crime.<sup>79</sup> The right-wing press cried foul but we should not underestimate the influence of the quirks of the superior courtroom on the jury's decision: Roelants may have been spared a harsher conviction by the emotive testimony of twelve-year-old Charles David, a boy whom Roelants had saved from drowning. Furthermore, if the jury was indeed influenced by such emotion, it cannot have harmed Roelants's chances that his wife gave birth during the last day of the trial.<sup>80</sup>

The trial of Parti Social Français member Alexis Valès took place at the assizes court of the Tarn-et-Garonne in March 1937. Valès was charged with causing the death of local communist activist Elie Cayla following a quarrel outside a political meeting in Moissac. The incident began when at the beginning of the meeting, several men had refused to stand for a performance of the *Marseillaise*. In the ensuing scuffle outside the venue, Valès punched Cayla on the right ear. Cayla fell and struck his head on the ground. He died two

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<sup>78</sup> AN BB<sup>18</sup> 2960. Le Procureur de La République à Versailles à Monsieur le Procureur général pres la Cour d'Appel Paris. 28 February 1935. AN F<sup>7</sup> 14795, Le Commissaire de Police Mobile YVONNET à Monsieur le Commissaire Divisionnaire, Chef de la 1<sup>re</sup> Brigade Mobile à Paris, Paris. 8 February 1935.

<sup>79</sup> Anon. Le procès du communiste Roelants, meurtier du camelot du roi Langlois. *Le Matin*, 1 June 1935, p. 5; Anon. La mort tragique de Marcel Langlois. *Le Matin*, 2 June 1935, p. 7.

<sup>80</sup> Anon. La mort tragique de Marcel Langlois. *Le Matin*, 2 June 1935, p. 7.

weeks later leaving a widow and two children.<sup>81</sup> At the trial, the prosecution demanded a ‘firm conviction’ for a man who had ‘broken the laws of friendship, hospitality and humanity’. The defence’s closing plea saw lawyer Albert Gautrat deliver both a violent attack on the communist party (during which the lawyers for the prosecution stormed out of the courtroom) as well as eulogising the virtues of the Parti Social Français. Gautrat pleaded with the jury to deliver a verdict that would not exacerbate political tension further. The jury convicted Valès of assault and battery (*coups et blessures volontaires*) and he received a six-month suspended prison sentence.<sup>82</sup> The verdicts passed in the cases of Roelants and Valès were largely consonant with those delivered for violent crimes more generally in the assizes court. Juries tended to look favourably on crimes that appeared to be devoid of premeditation and criminal intent, whether politics came into play or not.<sup>83</sup>

Aggravating factors were more likely to influence the decision of the jury than the political loyalties of the accused. Such was the case at the trial of communist activist Eugène Thibaut who was accused in July 1937 of the ambush and murder of Parti Social Français member Fernand Lafrance.<sup>84</sup> At the assizes court of the Nord, the prosecution made much of the political character of the crime, claiming that Thibaut had taken exception to Lafrance’s apparent defection from the left to the right. Once again the moral character of each man

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<sup>81</sup> Anon. Devant les assises de Tarn-et-Garonne ont commencé les débats de l’affaire de Moissac. *Le Matin*, 16 March 1937, p. 3.

<sup>82</sup> AN BB 18 2961. Le Procureur Général près la Cour d’Appel de Toulouse à Monsieur le Garde des Sceaux, Ministre de la Justice, à Paris. 18 March 1937; Anon. Les incidents de Moissac devant les Assises de Tarn-et-Garonne. *Le Matin*, 18 March 1937, p. 6

<sup>83</sup> Donovan, *Justice unblind*, 92; Martin, *Crime and Criminal Justice*, p. 188.

<sup>84</sup> Anon. Comparution du communiste Eugène Thibaut qui tua M. Fernand Lafrance membre du PSF. *Le Matin*, 9 April 1938, p. 6.

came to the fore. According to the presiding justice, the victim had been an ‘excellent father’ and a ‘respectable spouse’, while the accused had experienced difficulties in his employment. In his recommendation to the jury, the solicitor general stressed the political character of the crime and asked the jury to deliver a verdict of murder with premeditation but to consider allowing for extenuating circumstances.<sup>85</sup> The jury obliged and the court – with the input of the jurors - sentenced Thibaut to twenty years’ imprisonment with forced labour.<sup>86</sup> The severity of the sentence attested more to the fact of premeditation than the jurors’ desire to punish a communist.

Of course, the verdict at the assizes court was not always so easy to predict. In this respect, it is worth examining the trial of communists Jean-Pierre Clerc and Marie-Joseph Bernardon for the killings of four Jeunesses Patriotes outside a political meeting on the rue Damrémont in April 1925. The murders caused a sensation in France coming at a time of high political tension. The Jeunesses Patriotes had been founded the previous November along with several other extreme right-wing leagues bent on protecting France from the perceived threat of communism. Meanwhile the communist party had begun to form its own self-defence groups to protect its meetings from ‘fascist’ attack. On the night of 23 April 1925 a right-wing electoral meeting in the proletarian eighteenth *arrondissement* of Paris was perceived on the left as an invasion of its territory and a provocation. The meeting itself was stormy yet it ended without violence and communist orators had even been allowed to speak. However, after the meeting communists and leaguers clashed in the streets around the venue.

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<sup>85</sup> Anon. Comparution du communiste Eugène Thibaut qui tua M. Fernand Lafrance membre du PSF. *Le Matin*, 9 April 1938, p. 6.; Anon. Le communiste Thibaut meurtrier de M. Lafrance est condamné à vingt ans de travaux forcés. *Le Matin*, 10 April 1938, p. 1.

<sup>86</sup> AN 451 AP 129, Anon. Vingt ans de travaux forcés au communiste Thibaut assassin de Lafrance. *Le Petit Journal*, 10 April 1938.



Tensions seem to have boiled over when a Jeunesses Patriotes ‘century’, marching in a column, arrived in the area in the apparent belief that their leader, Pierre Taittinger, was under attack. A brawl began and shortly thereafter gun fire rang out. Three leaguers were killed outright while a fourth later died from his wounds.<sup>87</sup> In parliament the following day, Taittinger condemned the ‘unheard of savagery’ of the communists outside the meeting who attacked unarmed leaguers and were ordered to ‘fire into the crowd’.<sup>88</sup>

A year later, the trial of Clerc, a thirty-seven-year-old engraver, and Bernardon, a twenty-seven-year-old varnisher, commenced at the assizes court of the Seine. The two men were arrested on the night of the killings, Clerc at the scene of the crime and Bernardon as he fled into a nearby street. Both men were found in possession of a recently-discharged Browning revolver.<sup>89</sup> Forensic investigation confirmed that the bullets extracted from the victims – and several other cartridges found at the scene – had been fired from Clerc and Bernardon’s guns.<sup>90</sup> The victims had all been shot from behind, a fact that suggested they had either been taken by surprise or had been in the process of fleeing when they were murdered.<sup>91</sup> Clerc and Bernardon’s claim that they had fired in self-defence seemed unlikely.

The lawyers for the defence quickly sought to turn the proceedings into a trial of fascism in France, much to the anger of the prosecution.<sup>92</sup> André Berthon, left-wing deputy

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<sup>87</sup> AN F<sup>7</sup> 13236. Rapport. 27 April 1925.

<sup>88</sup> AN F<sup>7</sup> 13236. Chambre des députés: Compte rendu analytique officiel, Séance du vendredi. 24 April 1925.

<sup>89</sup> AN F<sup>7</sup> 13236. Le Préfet de Police à Monsieur le Ministre de l’Intérieur. 25 April 1925.

<sup>90</sup> Anon. La tragique bagarre de la rue Damrémont. *Le Matin* 4 May 1926, p. 2.

<sup>91</sup> AN F<sup>7</sup> 13236. Anon. L’autopsie des victims. *L’Humanité*, 25 April 1925.

<sup>92</sup> AN F<sup>7</sup> 13236. Piot J. Le défense renonce à l’audition de ses derniers témoins. *L’Oeuvre*, 30 April 1926.

and Clerc's lawyer, claimed that if the defendant had indeed fired his revolver he had not fired at men but at fascism itself.<sup>93</sup> Communist author Henri Barbusse, called by the defence, argued that, 'Fascism alone is responsible for the bloody fights of the rue Damrémont'.<sup>94</sup> Such a tactic by the defence must be understood in the context of understandings of fascism in France at this time. In the wake of the murders the extreme left pointed to several historic incidents of 'fascist' aggression: on 1 January 1925 a group left-wingers had been shot by strike-breakers at Douarnenez while on 15 April the Jeunesses Patriotes had mounted an alleged 'punitive expedition' to Sèvres.<sup>95</sup> When asked during the trial why he had had a revolver in his possession, Clerc responded, 'To defend myself', and cited the incident at Douarnenez as well as another incident at a political meeting when he had been threatened with a revolver by a member of the Jeunesses Patriotes.<sup>96</sup> Likewise the right claimed that violence at Marseille in February 1925 during which two members of the Fédération Nationale Catholique were killed presented merely a prelude to the communist killings rue Damrémont killings.<sup>97</sup> Such references remind us that contemporaries viewed violence

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<sup>93</sup> AN F<sup>7</sup> 13236. Vaillant-Couturier P. Bernardon est acquitté! Clerc, trois ans de prison! *L'Humanité*, 6 May 1926.

<sup>94</sup> AN F<sup>7</sup> 13236. Meunier F. Le témoignage de l'expert Bayle n'apporte pas la démonstration attendue. *L'Humanité*, 4 May 1926.

<sup>95</sup> AN F<sup>7</sup> 13236. Anon. A l'Opinion publique! A toute la classe ouvrière!; Elections municipales du 3 May 1925; Quartier du Pont de Flandre, 19<sup>th</sup> arrdt, Réunion organisée par le Parti communiste; Candidature de Marguerite Faussecave. 25 April 1925; Cachin M. Nous ne laisserons pas dénaturer les faits! *L'Humanité*, 26 April 1925.

<sup>96</sup> AN F<sup>7</sup> 13236. Clerc et Brnardon sont interrogés. *L'Oeuvre*, 1 May 1925.

<sup>97</sup> AN F<sup>7</sup> 13236. Francois-Poncet A. Un crime. Un avertissement. *L'Avenir*, 25 April 1925.

incidents not in isolation but as episodes in an unfolding narrative of confrontation, an ‘exchange of blows’, according to Michel Dobry.<sup>98</sup>

The murders at the rue Damrémont were read with reference to political events outside France, too. In the immediate aftermath of the violence, in the Chamber of Deputies communist Marcel Cachin stated that ‘[t]he workers know what fascism is in Italy, they foresee what it will be tomorrow in France, and they were therefore prepared to defend themselves [on the night]’.<sup>99</sup> On the other hand conservative deputy Charles Reibel – a lawyer who would act for the civil party in the trial – argued that murders by Italian left-wingers prompted revenge attacks from Mussolini’s fascists because the government was powerless to act.<sup>100</sup> Meanwhile, Gustave Hervé, a ferocious right-wing journalist, understood the killings in the context of recent communist violence in Eastern Europe and in particular the destruction of the cathedral in Sofia.<sup>101</sup> The Bulgarian example arose in other sections of the press too.<sup>102</sup> Political violence committed abroad thus informed understandings of the phenomenon in France.

Bernardon was acquitted on all counts while Clerc was convicted of one count of murder and three counts of attempted murder. However, the jury found, too, evidence of

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<sup>98</sup> Dobry M. *Sociologie des crises politiques*. Presses de la Fondation Nationale des Sciences Politiques, 1986.

<sup>99</sup> AN F<sup>7</sup> 13236. Chambre des députés: Compte rendu analytique officiel, Séance du vendredi. 24 April 25. A similar argument was made here: Morel E. La consequence. *Le Peuple*, 26 April 1925.

<sup>100</sup> AN F<sup>7</sup> 13236. Chambre des députés: Compte rendu analytique officiel, Séance du vendredi. 24 April 25.

<sup>101</sup> AN F<sup>7</sup> 13236. Hervé G. Comme à Marseille, comme à Sofia. *Victoire*, 25 April 1925.

<sup>102</sup> AN F<sup>7</sup> 13236. Des violences verbales aux autres. *Débats*, 24 April 1925.

provocation and mitigating circumstances.<sup>103</sup> The court therefore saw fit to sentence Clerc to just three years' imprisonment. Communist newspaper *L'Humanité* hailed the verdict as a political testament of the 'disgust of the middle classes... for Mussolinian dictatorship'.<sup>104</sup> The right-wing press read the 'shameful' and 'scandalous' verdict as no less political for it invited communists to continue killing patriots.<sup>105</sup> The perceived (il)legitimacy of the verdict served to undermine further the trust of violent political groups not only in the judicial process but also in the Third Republic itself. In Jeunesses Patriotes and Action Française circles it was mooted that only left-wingers had been picked for the trial jury.<sup>106</sup> Writing in *La Liberté*, Camille Aymard stated that while no one wanted to see the sort of violence perpetrated in Italy or Russia imported to France, if the law was afraid to judge the rue Damrémont killers then recourse to violence was preferable to being delivered defenceless to murderers.<sup>107</sup> In the continuum of French political confrontation, the verdict passed on the accused represented another blow for the left against the right. The communist party, which

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<sup>103</sup> AN F<sup>7</sup> 13236. Gonon C. Clerc est condamné à 3 ans de prison, Bernardon acquitté. *Le Quotidien*, 6 May 1926.

<sup>104</sup> AN F<sup>7</sup> 13236. Vaillant-Couturier P. Bernardon est acquitté! Clerc, trois ans de prison! *L'Humanité*, 6 May 1926.

<sup>105</sup> See for example: AN F<sup>7</sup> 13236. Hervé G. Un verdict honteux. *Victoire*, undated; Roger Giron expressed a similar opinion: Clerc n'est condamné qu'à 3 ans de prison. *Avenir*, 6 May 1926. On the point of view of the Faisceau see Arthuys J. Un verdict scandaleux. *Nouveau Siècle*, 6 May 1926.

<sup>106</sup> AN F<sup>7</sup> 13236. Chez les Jeunesses Patriotes. 16 April 1926; Manouvriez A. Les assassins communistes de la rue Damrémont: Un verdict honteux. *Action Française*, 6 May 1926.

<sup>107</sup> AN F<sup>7</sup> 13236. Aymard C. Justice! *La Liberté*, 17 April 1926.

had reason to be satisfied with the verdict, considered the trial to be merely the latest episode in the class struggle.<sup>108</sup>

The most high-profile acquittal of the 1930s was that of Action Française leaguers Eugène Fritsch and Jean Théry. The two men were tried at the assizes court of the Pas-de-Calais in June 1934 for the murder of antifascist demonstrator Joseph Fontaine at Hénin-Liétard in April 1934. Fontaine was shot dead outside the venue of an Action Française meeting in Hénin-Liétard. The meeting had been due to take place at the Palais des Fleurs restaurant, in a room at the rear of the establishment that could be accessed only via a corridor. Communists and socialists in the town took exception to the staging of a right-wing meeting in an area that they considered to be solidly working class. The rumour that Action Française speaker Léon Daudet was due to attend the meeting further incensed local antifascists. Crowds of left-wing counter-demonstrators began to gather at the nearby Place Carnot in the afternoon on the day of the meeting. At 6.30pm, the proprietor of the Palais des Fleurs opened the door at the end of the corridor leading to the venue, which gave out onto the Place Carnot. A crowd of demonstrators rushed in and a fight ensued. Fontaine was shot in the heart as a contingent of leaguers retreated toward the meeting room. Police arrived, locked the right-wingers in the room for their own protection, and subsequently arrested Fritsch for the murder of Fontaine.<sup>109</sup>

The trial of the leaguers at the courthouse in Saint-Omer saw a large security force assembled, in anticipation of antifascist demonstrations in the vicinity. For five days prior to the commencement of the trial, gatherings in the street were banned and cafes were subject to an enforced closing time of 10pm. During the trial itself, *Le Matin* reported that

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<sup>108</sup> AN F<sup>7</sup> 13236. Cachin M. Un procès de classe! *L'Humanité*, 2 May 1926.

<sup>109</sup> AN BB<sup>18</sup> 2918. Le Procureur Général près la Cour d'Appel de Douai à Monsieur le Garde des Sceaux, Ministre de la Justice, à Paris, Douai. 12 April 1934.

approximately 1000 officers of the Mobile Guard occupied the squares and cross-roads of the town while police cordons blocked the rue du Palais-de-Justice at both ends. Witnesses at the trial included the usual mix of eye witnesses and notable figures in left and right-wing politics who had not witnessed the crime, such as communist Marcel Cachin and right-wing polemicist Philippe Henriot. Such witnesses took the opportunity to wax lyrical about political doctrine and denounce the violence - past and present - of their enemies. Cachin ended a thirty-minute soliloquy on socialism with, '[It's] never one of our opponents!... The dead are all from our side'. 'And the four young patriots murdered on the rue Damrémont?' responded Henri Roux for the defence.<sup>110</sup>

The case against Fritsch and Théry seemed strong. The prosecution alleged that Fritsch had deliberately aimed into the crowd and fired in an act of premeditated violence. Witnesses claimed that he had stood on the steps of the meeting room, four metres from the onrushing demonstrators, and coolly emptied his magazine into the crowd. Théry's charge related to the allegation that he had passed a new magazine to Fritsch who had then continued to fire. The public prosecutor's report seemed to confirm the version of events presented by witnesses. He argued that given the angle at which the fatal bullet had struck Fontaine, Fritsch had fired horizontally and not upwards into the air as he claimed.<sup>111</sup> The prosecutor continued that Fritsch admitted that he had not been involved in hand-to-hand fighting in the corridor and had suffered no injury, further confounding his claim to have acted in self-

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<sup>110</sup> Anon. Les militants royalistes Eugène Fritsch et Jean Théry répondent de la mort du communiste Joseph Fontaine. *Le Matin*, 21 June 1934, p. 1; Anon. MM Fritsch et Théry devant les assises du Pas-de-Calais. *Le Matin*, 22 June 1934, p. 3.

<sup>111</sup> Anon. Les militants royalistes Eugène Fritsch et Jean Théry répondent de la mort du communiste Joseph Fontaine. *Le Matin*, 21 June 1934, p. 1.

defence.<sup>112</sup> Furthermore, Fritsch was known to local police authorities as ‘one of the most fanatical (*exaltés*) Action Française activists in the Nord region’ and the presiding judge stated to the court that he had prior convictions for carrying banned weapons and assault and battery. Théry meanwhile had been convicted in the past for illegal arms smuggling.<sup>113</sup>

The public prosecutor sought to seal the duo’s fate with a damning closing statement. While admitting that the crowd outside the venue had likely been overexcited, this was understandable given their belief that the leaguers were armed, a belief that was soon proved to be well founded. He stressed that if some bullets had been fired into the air many were also fired horizontally at the height of a man. Finally, he concluded that Fritsch had suffered no injury and could not therefore have acted in self-defence. The prosecutor requested that the jury convict the men of murder and attempted murder, but he allowed for the provision of extenuating circumstances. The jury subsequently acquitted Fritsch and Théry. Furthermore, while Mme Fontaine was awarded 50,000 Francs in damages (a long way short of the 200,000 Francs she requested), she was required to pay the cost of the criminal trial.<sup>114</sup> The jury’s decision to acquit Fritsch of the killing of Fontaine stemmed from the fact that Fritsch found himself in a frightening situation, confronted as he was by a mob of antifascist demonstrators bent on breaking into the meeting venue at the Palais des Fleurs and beating

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<sup>112</sup> AN BB<sup>18</sup> 2918. Le Procureur Général près la Cour d’Appel de Douai à Monsieur le Garde des Sceaux, Ministre de la Justice. 19 April 1934; Anon. Les militants royalistes Eugène Fritsch et Jean Théry répondent de la mort du communiste Joseph Fontaine. *Le Matin*, 21 June 1934, p. 1.

<sup>113</sup> AN BB<sup>18</sup> 2918. Le Procureur Général près la Cour d’Appel de Douai à Monsieur le Garde des Sceaux, Ministre de la Justice, à Paris, Douai. 12 April 1934.

<sup>114</sup> Anon. L’acquittement des royalistes Fritsch et Théry. *Le Matin*, 23 June 1934, p. 3; Anon. L’épilogue des sanglants incidents d’Hénin-Liétard. *L’Ouest-Eclair*, 23 June 1934, p. 4.

the leaguers they expected to find within. To the jury, it must have therefore seemed reasonable of Fritsch to have fired his revolver directly at the onrushing mob, even though he had suffered no injury himself.

When juries returned a displeasing verdict, political groups condemned not only the partiality of the legal system, but that of the Republic, too. Despite the accusation of partiality levelled at the legal system when no one was brought to trial, the difficulty in establishing the true version of events, whether due to a lack of evidence or conflicting witness statements, influenced the decision to dismiss charges more than political bias. If such an outcome was frustrating for the police authorities, it was considered damning of the judicial system by political groups. When perpetrators faced a trial by jury, aggravating circumstances could lead to a harsher penalty. However, the provision of mitigating circumstances and the granting of outright acquittals in cases of killings suggested that in making their decisions jurors drew not only on the arguments and evidence presented in the courtroom but also based on their understandings of the legitimacy of the act. The assizes court was another arena in which left and right confronted each other in interwar France.

## **Conclusion**

During the interwar years, the courts of the Third Republic meted out justice to political activists in an apparently even-handed manner. The circumstances of a crime were more likely to hinder the arrest and prosecution of a perpetrator than political partiality.

Nevertheless, political groups made sure that during trials the partiality of the Republic remained under the spotlight. In this respect, the trials of French activists bear comparison with those of their German counterparts. Henning Grunwald's work has identified the courthouses of Weimar Germany as an important site in the ideological conflict of the era in



which both left and right sought to undermine further the Republic.<sup>115</sup> French lawyers and witnesses likewise used the drama of a trial to extend the political conflict from the street into the court house. Unsatisfactory verdicts provided further justification for political groups to organise their own defence, taking the law into their own hands.

The relative leniency of verdicts at the assizes court was consonant with those of other violent crimes; the political circumstances of an offense did not warrant special consideration. It is possible that the verdicts in jury trials hint at broader understandings of violence as a justifiable course of action when committed in self-defence. However, in the 1926 trial of Jean-Pierre Clerc and Marie-Joseph Bernardon, the defensive nature of the violence was not clear. While Clerc and Bernardon claimed that they had been involved in a scuffle with Jeunesses Patriotes leaguers outside the meeting venue in Paris's eighteenth arrondissement, one cannot escape the fact that the four men who died all suffered bullet wounds to the back, suggesting that they were either ambushed or running away from their assailants. It is difficult to believe that the men were provoked into firing their weapons unless we accept that the very presence of the Jeunesses Patriotes in this proletarian district of Paris was considered a provocation in itself. This was certainly the argument of the communist party both before and after the event. Given the social division of urban space in interwar France, perhaps the jury had considered the leaguers to have been in unfamiliar and even hostile territory. Yet it would be significant if the jurors believed that this 'invasion' of territory was met by a justifiably violent riposte. Political groups claimed that to commit violence in self-defence was acceptable, even if this violence was disproportionate to the threat posed, while they likewise considered a violent response to the invasion of their political and social territory acceptable. If recent research has demonstrated the acceptability

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<sup>115</sup> Grunwald H. *Courtroom to Revolutionary Stage: Performance and Ideology in Weimar Political Trials*. Oxford: Oxford University Press, 2012.

of political violence, committed in particular contexts, to activists, analysis of the decisions of jurors suggests that such attitudes to violence may have been shared by people beyond the immediate membership of political leagues and parties. According to Ferguson, those people who were acquitted of violent crimes at the assizes court were deemed neither to represent a continued menace to society nor to be a deviant or criminal; they had simply, ‘acted in a way consistent with ordinary standards of behavior’.<sup>116</sup>

The concern of judges was not to favour one political ideology over another but to protect the police officers who served to uphold Republican law. When a civilian died at the hands of an officer, it was assumed – in some cases surely rightly - that officers had acted in self-defence at the risk of their own life. It was necessary to preserve the right of officers to perpetrate violence and to kill in the name of law and order: on the day after the riot of 6 February 1934, during which officers had killed or mortally wounded over a dozen protesters, the government of Edouard Daladier reaffirmed its unreserved support for the police, without mentioning the victims of their violence.<sup>117</sup> If historians have suggested that right-wing sympathies amongst the German, Italian and Spanish police facilitated the move from democracy to fascism in these countries, the fact that the Third Republican court system seemed to protect officers and punish harshly their attackers offers a potential explanation of the loyalty of the French police to the regime.<sup>118</sup>

In 1940, the reliable republicanism of the judiciary did not prevent its smooth transition, ‘virtually without personnel change’, to the authoritarianism of the *Etat*

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<sup>116</sup> Ferguson, *Judicial authority and popular justice*, 307.

<sup>117</sup> Blanchard E. Le 6 février 1934, une crise policière? *Vingtième Siècle. Revue d'histoire* 2015; 128: 15-28.

<sup>118</sup> On this subject see also Kitson S. *Police and politics in Marseille*.

*français*.<sup>119</sup> Initially, the regime punished violent acts of resistance in the lower courts; as under the Third Republic, this violence was understood as criminal rather than political.<sup>120</sup> As the war progressed, the regime resorted increasingly to exceptional measures. The law of 5 June 1943 introduced the crime of terrorism into French law to ensure that the courts hardened their judgements in matters of political violence. The following month, Vichy toughened the trial and sentencing procedure for crimes committed against police officers. Such offences were subsequently subject to the judgment of two professional magistrates and three members of the police force. This step allowed officers to exact vengeance on the men and women who had attacked their colleagues.<sup>121</sup> If by 1943, the judiciary had remained largely loyal to Vichy for a variety of reasons, from obedience to the 'legitimate power' to anti-Semitism and xenophobia, the regime could rely less on the courts once the tide of the war had turned. Responsibility for the repression of political crimes was handed over to the courts martial of the Milice.<sup>122</sup>

The (para)militarisation of the courts and the police in matters of political opposition was further advanced during the campaign against Algerian nationalists in the 1950s and 1960s.<sup>123</sup> The violence of the Paris police against ethnic Algerians went largely unpunished thanks to the corrupt practices of Maurice Papon's Prefecture of Police. The government's amnesty of 22 March 1962 ensured that all cases of the police killing or injuring of Algerians

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<sup>119</sup> Paxton RO. *Vichy France: Old guard and new order*. New York: Knopf, 1972, p. 339.

<sup>120</sup> Farcy, *L'histoire de la justice française*, p. 414.

<sup>121</sup> Farcy, *L'histoire de la justice française*, p. 415; Sansico V. Le terrorisme, vie et mort d'une notion juridique (1930-1945). *Archives de la Politique Criminelle* 2016; 38: 27-45.

<sup>122</sup> Farcy, *L'histoire de la justice française*, p. 416.

<sup>123</sup> See on police and Algeria Blanchard E. *La police parisienne et les Algériens (1944-1963)* Paris: Nouveau Monde éditions, 2011.

in Paris were dismissed. Police were further able to obstruct the investigation into the Charonne demonstration massacre on 8 February 1962; a further amnesty in 1966 meant that all investigations were closed.<sup>124</sup> While one must give due weight to the changing contexts in which the police forces of the *Etat français* and successive Republican regimes were required to operate, the desire to protect police officers from prosecution, even for acts of extreme violence, represents a strand of continuity between the interwar regime and subsequent administrations.

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<sup>124</sup> House J and MacMaster N. *Paris 1961: Algerians, state terror and memory*. Oxford: Oxford University Press, 2006, pp. 149-153; 247-252.